

## **REMARKS**

### **I. Introduction.**

Claims 8-13 and 15-18 are currently pending in this Application, of which claim 8 is independent. Claim 14 has been cancelled. Claims 13 and 15 have been amended. Applicant respectfully submits that all pending claims are condition for allowance.

### **II. Claim Objections.**

Claims 14 is objected to under 37 CFR §1.75(c) as being of improper dependent form. Applicant respectfully submits that this objection is obviated in light of the cancellation of claim 14 and amendment of claims 13 and 15.

### **III. Rejections under 35 U.S.C. §102 and 35 U.S.C. § 103.**

Claims 8-10, 12-14 and 18 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,203,681 to Cooper (Cooper'681). Claims 8-10, 12-14 and 18 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,330,328 to Cooper (Cooper '328). Claims 8-11, 16 and 17 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,398,525 to Cooper (Cooper '525). Claims 8-11, 16 and 17 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,303,074 to Cooper (Cooper '074). Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over either of Cooper '328 or Cooper '681.

Applicant respectfully submits that none of the cited references (i.e., Cooper '681, Cooper'328, Cooper '525, or Cooper '074), alone or in combination, disclose or suggest each and every limitation of independent claim 8. In particular, none of the references disclose or suggest a plurality of support posts each having a substantially similar height. The only support for this rejection is the Examiner's contention that the *drawing figures* show support posts that are substantially similar in height. However, "it is well established that patent drawings do not define the precise proportions of the elements and may not be relied on to show particular sizes if the specification is completely silent on the issue." Hockerson-Halberstadt, Inc. v. Avia Group Int'l, 222 F.3d 951 at 956 (Fed. Cir. 2000); MPEP §2125 ("when the reference does not disclose that the drawings are to scale and is silent as to dimensions, arguments based on measurement of the drawing features are of little value"). In this case, none of the cited references specify the

dimensions of the support posts used with their respective molten metal pumps, or that each of the posts are of substantially the same height.

Moreover, dependent claim 9 includes the limitation that each of the support posts has a height H plus or minus .010.” None of the cited references include this limitation. As explained in the specification, contrary to the prior art, the super structure of the present invention rests on the support posts, so it is necessary for the support posts to be substantially the same height (preferably plus or minus .010”) for the super structure to be substantially level. None of the cited references discloses a plurality of support posts each having a height H plus or minus .010.”

Applicant therefore respectfully requests the withdrawal of the rejections of independent claim 8 (and all claims dependent thereon) and 9 under 35 U.S.C. §102.

Additionally, none of the cited references disclose or suggest at least partially supporting the superstructure of the pump by the top of each support post as recited in claim 10. For example, Cooper ‘681 and Cooper ‘328 show the superstructure 26 connected to support post 24 using a through bolt 312 that passes through the of the support post 24 and through the support post clamp 30 on mounting plate 262. See Cooper ‘681, col. 10, lines 5-49 and Fig. 15. It is this through bolt passing through the support post, and the bore through the support post, that support the superstructure. Thus, the respective superstructures in Cooper ‘681 and Cooper ‘328 are not supported (even partially) by the top of any of the support posts as required by claim 10.

Likewise, in Cooper ‘074 and Cooper ‘525, the support posts 30 are not supported by the top of any of the support posts.

### CONCLUSION

In view of the amendments and arguments herein, reconsideration is respectfully requested. Applicant believes the case is in condition for allowance and respectfully requests withdrawal of the rejections and allowance of the pending claims.

Applicant reserves the right to prosecute any cancelled claims or additional claims, including claims of broader scope, in a continuation application.

Applicant hereby petitions for any extension of time which may be required to maintain the pendency of this case, and any required fee, except for the Issue Fee, for such extension is to be charged to **Deposit Account No. 19-3878**.

The Examiner is invited to telephone the undersigned at the telephone number listed below if it would in any way advance prosecution of this case.

Respectfully submitted,

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